

**ENTERED**

November 30, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

JARVIS LIVINGSTON,

Plaintiff,

VS.

STATE OF TEXAS, *et al.*,

Defendants.

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CIVIL ACTION NO. 6:21-CV-00007

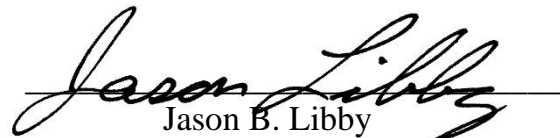
**ORDER**

Plaintiff is a Texas inmate appearing *pro se* and *in forma pauperis*. In this prisoner civil rights action, Plaintiff asserted claims of false arrest and excessive force. Plaintiff's case was dismissed on September 29, 2022. (D.E. 59 and D.E. 60). Plaintiff filed a Notice of Appeal on October 27, 2022. (D.E. 63).

Pending is Plaintiff's Motion for Transcripts. (D.E. 70). Plaintiff seeks a transcript of the *Spears* hearing as well as several other hearings at the government's expense. (D.E. 67; D.E. 68; and D.E. 69). Plaintiff provides no argument with his motion, only the request that it be at the Government's expense because he cannot afford the cost of transcripts. The Motion is **DENIED**. (D.E. 70). A plaintiff in a civil proceeding may obtain a transcript at government expense under 28 U.S.C. § 753(f) if: (1) he is permitted to proceed *in forma pauperis*; (2) moves for a transcript; and (3) demonstrates the appeal "is not frivolous (but presents a substantial question)." This case was decided on summary judgment and

Plaintiff has presented no argument demonstrating his appeal is not frivolous. Plaintiff has received all filings which have been entered on the Court's docket, including the undersigned's memorandum and recommendation and all orders of the Court, including the final judgment. The only testimony in the case was Plaintiff's own testimony at the *Spears* hearing of which he is aware. Plaintiff has not demonstrated why the transcript of the *Spears* hearing, which is his own testimony, and transcripts of the other hearings are necessary for the disposition of his appeal. 28 U.S.C. § 753(f); *Norton v. Diamazana*, 122 F.3d 286, 293 (5th Cir. 1997) (“[A] party must also show why the transcripts are necessary for proper disposition of his appeal.”)

ORDERED on November 30, 2022.

  
Jason B. Libby  
United States Magistrate Judge